

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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DEREK KIRK,

Plaintiff,

KEN FURLONG, et al.,

Defendants.

Case No. 3:13-cv-00490-MMD-VPC

ORDER ACCEPTING AND ADOPTING
REPORT AND RECOMMENDATION OF
MAGISTRATE JUDGE
VALERIE P. COOKE

Before the Court is the Report and Recommendation of United States Magistrate Judge Valerie P. Cooke (dkt. no. 52) ("R&R" or "Recommendation") relating to Defendants' Motion for Summary Judgment (dkt. no. 32). The parties had until April 8, 2016, to object to the R&R. To date, no objection has been filed.

This Court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Where a party timely objects to a magistrate judge’s report and recommendation, then the court is required to “make a *de novo* determination of those portions of the [report and recommendation] to which objection is made.” 28 U.S.C. § 636(b)(1). Where a party fails to object, however, the court is not required to conduct “any review at all . . . of any issue that is not the subject of an objection.” *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Indeed, the Ninth Circuit has recognized that a district court is not required to review a magistrate judge’s report and recommendation where no objections have been filed. See *United States v. Reyna-Tapia*, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard of review employed by the district court when reviewing a report and

1 recommendation to which no objections were made); see also *Schmidt v. Johnstone*,
2 263 F. Supp. 2d 1219, 1226 (D. Ariz. 2003) (reading the Ninth Circuit's decision in
3 *Reyna-Tapia* as adopting the view that district courts are not required to review "any
4 issue that is not the subject of an objection."). Thus, if there is no objection to a
5 magistrate judge's recommendation, then the court may accept the recommendation
6 without review. See, e.g., *Johnstone*, 263 F. Supp. 2d at 1226 (accepting, without
7 review, a magistrate judge's recommendation to which no objection was filed).

8 Nevertheless, this Court finds it appropriate to engage in a *de novo* review to
9 determine whether to adopt Magistrate Judge Cooke's R&R. The Magistrate Judge
10 recommends granting summary judgment in favor of Defendants Ken Furlong and
11 Donald White for claims asserted against them in their individual capacities, finding that
12 they are entitled to qualified immunity. (Dkt. no. 10 at 8-9.) The Magistrate Judge
13 recommends denying summary judgment with respect to the remaining Defendants and
14 to Defendants Furlong and White in their official capacities. (*Id.* at 4-8, 10.) Having
15 reviewed the R&R and underlying briefs, this Court finds good cause to adopt the
16 Magistrate Judge's R&R in full.

17 It is therefore ordered, adjudged and decreed that the R&R of Magistrate Judge
18 Valerie P. Cooke (dkt. no. 52) is accepted and adopted in its entirety. Defendants'
19 Motion for Summary Judgment (dkt. no. 32) is granted in part and denied in part. It is
20 granted with respect to claims against Defendants Furlong and White in their individual
21 capacities; it is denied with respect to the remaining Defendants and to Defendants
22 Furlong and White in their official capacities.

23 DATED THIS 15th day of April 2016.



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25 MIRANDA M. DU
26 UNITED STATES DISTRICT JUDGE
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